THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.Nos.18945&23342 of 2005

Date:08.12.2005

W.P.No.18945 of 2005

K.Veeranjaneyulu.

--------PETITIONER

State of Andhra Pradesh and others.

---------RESPONDENTS

W.P.No.23342 of 2005

S.Sitaramanjaneyulu

--------PETITIONER

State of Andhra Pradesh and others.

---------RESPONDENTS

COMMON ORDER:

These Writ Petitions are filed by two School Assistants of S.A.R.R.M.High School, Vittal Nagar,Chirala, Prakasam District (for short 'the School') claiming that they be promoted to the post of 'Head Master'.

For the sake of convenience, the parties are referred to as they are arrayed in W.P.No.23342 of 2005.

The petitioner was appointed as Telugu Pandit in the School on 25.09.1980 and the post has since been equated to School Assistant. The 6th respondent, who is incidentally the petitioner in W.P.No.18945 of 2005, was appointed as School Assistant in the School on 01.07.1986. The post of 'Head Master' in the School fell vacant on 01.07.2004. The 6th respondent was kept in-charge of that post and the School submitted its proposals to the Regional Joint Director of School Education, Guntur, 3rd respondent herein, seeking permission to fill the post of Head Master. It is stated that the permission has been accorded by the 3rd respondent on 14.09.2002 and in pursuance thereof, the 6th respondent was promoted as 'Head Master' on 16.09.2004. The 6th respondent filed W.P.No.18945 of 2005 seeking a direction to the 3rd respondent to approve his appointment. An interim direction was granted by this Court on 05.09.2005 and it is stated that in pursuance thereof, the 3rd respondent approved the appointment of the 6th respondent as 'Head Master' on 15.10.2005.

The petitioner states that the post of 'Telugu Pandit' has since been equated to 'School Assistant' and even otherwise, the post of Telugu Pandit is one of the feeder categories to the post of 'Head Master', and that though he is senior to the 6th respondent, his case was not considered.

Counter affidavits have been filed by the respective respondents in the Writ Petitions.

Heard the learned counsel for the respective petitioners in the writ petitions and the learned Government Pleader for School Education.

The narrow controversy in these writ petitions is as to who among the petitioner and the 6th respondent is senior in the category of School Assistant for the purpose of appointment to the post of Head Master. While the petitioner places reliance upon G.O.Ms.No.173, Education (B) Department, dated 09.03.1984 as

well as G.O.Ms.Nos.95 and 96, Education (Service-I) Department, dated 25.07.2005, the 6th respondent insists that G.O.Ms.Nos.95 and 96 are applicable, only to Zilla Parishad Schools and not to the private aided institutions.

Though the Management of the School submitted its proposal for appointment of the 6th respondent, it is stated that on 17.08.2005, the proposal has been withdrawn, in the light of the subsequent amendments made to the relevant Government Orders.

It is true that in G.O.Ms.No.167, dated 09.08.1984, six different posts were treated as feeder categories to the post of 'Head Master' and the appointments are to be made in order of preference of those categories. The post of 'Language Pandit' is mentioned at item No.4 and according to that G.O., as long as any School Assistant Grade-II is available, the question of appointing any Language Pandit as Head Master does not arise. However, the expression "By promotion in the following order of preference from any of the qualified persons in the categories of" occurring in G.O.Ms.NO.167 against the post of Head Master was replaced by the words "By promotion of senior most qualified person in the category of" through the orders in G.O.Ms.No.68, dated 15.06.2004. This made all the difference and seniority among the categories mentioned in G.O.Ms.NO.167 becomes the guiding factor. The question as to whether G.O.Ms.Nos.95 and 96, dated 25.07.2005, have any bearing on the matter needs to be considered.

The proposal submitted by the Management of the School in respect of the 6th respondent was on the basis of the provisions contained in G.O.Ms.No.167, dated 09.03.1984, obviously not being aware of the subsequent developments. Since the Management has withdrawn the proposal and a substantial change in legal position has taken place, the entire matter needs reconsideration.

For the foregoing reasons, the Writ Petitions are disposed of, directing that-

a. the cases of the Writ Petitioner, by name S.Sitaramanjaneyulu, and the 6th respondent, by name K.Veeranjaneyulu, School Assistants of the School, shall be considered by the Regional Joint Director of School Education, Guntur, 3rd respondent herein, in the light of the existing rule position, and appropriate orders, in that regard, be passed within a period of three (3) weeks from the date of receipt of a copy of this order;

b. till such orders are passed, the continuance of the 6th respondent as 'Head Master' shall be treated on full additional charge basis, without prejudice to the rights of the petitioner; and

c. it shall be open to the petitioner and the 6th respondent to submit their representations, narrating their relevant points of view, before the Regional Joint Director of School Education, 3rd respondent herein, within a period of one (1) week from today.

There shall be no order as to costs.

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08.12.2005

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